

<b>USDC SDNY</b>
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<b>DATE FILED:</b> <u>2/11/13</u>

UNITED STATES ATTORNEY  
SOUTHERN DISTRICT OF NEW YORK  
PROVISIONAL RELEASE OF AN OFFENDER

DEFERRED PROSECUTION

To: Brian McCarthy

United States District Court  
Docket No. 11 Cr. 900 (TPG)

On October 21, 2011, a two count Indictment was filed in the United States District Court for the Southern District of New York, in which you are accused of committing certain offenses against the United States, to wit, conspiracy to commit criminal copyright infringement, in violation of Title 18, United States Code, Section 371, and criminal copyright infringement, in violation of Title 17, United States Code, Section 506(a)(1) and Title 18, United States Code, Sections 2319 and 2. However, after a thorough investigation, it has been determined that the interest of the United States and your own interest will best be served by deferring prosecution in this District. Prosecution will be deferred during the term of your good behavior and satisfactory compliance with the terms of this agreement for the period of six (6) months from the signing of this agreement. The term and conditions constituting your good behavior and satisfactory compliance are as follows:

- (1) You shall refrain from violation of any law (federal, state and local). You shall immediately contact your U.S. Pretrial Services Officer if arrested or questioned by a law-enforcement officer.
- (2) You shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by your U.S. Pretrial Services Officer.
- (3) You shall seek and or maintain lawful, verifiable employment and/or regularly attend school and support your legal dependents, if any, to the best of your ability. When out of work or not attending school you shall notify your supervising U.S. Pretrial Services Officer at once. You shall consult him or her prior to job and school changes.
- (4) You shall not leave the Southern District of Texas without permission of your supervising U.S. Pretrial Services Officer, except for travel to the Southern or Eastern Districts of New York for any court appearances.
- (5) You shall continue to reside in the Southern District of Texas. You shall seek approval from your supervising U.S. Pretrial Services Officer prior to any change in your place of residence.

- (6) You shall follow your supervising U.S. Pretrial Services Officer's instructions and advice.
- (7) You shall report to your supervising U.S. Pretrial Services Officer as directed.
- (8) You shall not engage in the dissemination of any copyrighted sports-related media over the Internet, unless authorized to do so by the relevant copyright holder(s).
- (9) You shall continue mental health therapy as directed by your U.S. Pretrial Services Officer.

As a further condition you hereby consent to permit disclosure to the supervising Pretrial Services Officer, consistent with Section 408 of Public Law 92-255 of New York State and regulations issued pursuant thereto, of such medical and treatment records as may be relevant to deferral of prosecution in this case.

Special conditions are as follows:

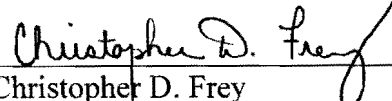
The United States Attorney may at any time revoke or modify any condition of this provisional release or change the period of such supervision. The United States Attorney may discharge you from supervision at any time. The United States Attorney may at any time proceed with the prosecution for this offense should such action be deemed advisable.

You shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 981 and 2323, Title 21, United States Code, Section 853, and Title 28, United States Code, Section 2461, \$351,033.54 in United States currency, representing the proceeds that you personally obtained as a result of the offenses alleged in Counts One and Two of the Indictment.

If upon completion of your supervision a written report from your supervising U.S. Pretrial Services Officer is received to the effect that you have complied with all the rules, regulations and conditions and special conditions, if any, above mentioned, no further prosecution will be instituted in this District for the above offense.

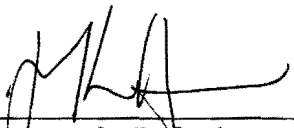
Dated: New York, New York  
February 11, 2013

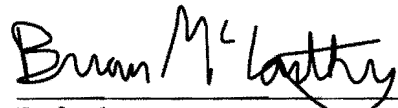
PREET BHARARA  
United States Attorney

By:   
Christopher D. Frey  
Assistant United States Attorney

The undersigned hereby consents to the foregoing and expressly waives any and all rights to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, Title 18, United States Code, Section 3161(h)(2) and the Rules of the District Court of the Southern District of New York, or other pertinent provisions and consents to the adjournment of all pending proceedings in this case. The undersigned further waives the applicable statute of limitations with respect to any prosecution that is not time-barred on the date that this agreement is signed. It is the intent of this provision to toll the applicable statute of limitations during the pendency of the deferred prosecution.

Dated: New York, New York  
February 11, 2013

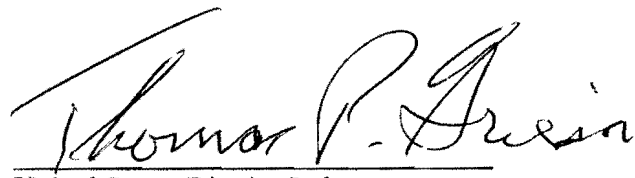
  
\_\_\_\_\_  
Attorney for Defendant

  
\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Parent or Guardian of Defendant  
(If Defendant under 18)

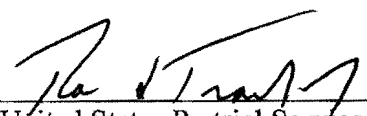
The foregoing waiver of the defendant's right to a speedy trial is approved pursuant to Rule 5(b) of the Second Circuit Plan for Achieving Prompt Disposition of Criminal Cases and the Rules of the District Court for the Southern District of New York.

Dated: New York, New York  
February 11, 2013

  
\_\_\_\_\_  
United States District Judge

The undersigned hereby consents to the foregoing and will accept supervision of the above-named defendant on the conditions set forth herein.

Dated: New York, New York  
February 11, 2013

  
\_\_\_\_\_  
United States Pretrial Services Officer